

EN BANC

[G.R. No. 116394, June 19, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TEODORO BONOLA Y DELA CRUZ, JOVEN FULGADO (AT LARGE),
AND ALIAS DIDOY (AT LARGE), ACCUSED, TEODORO BONOLA Y
DELA CRUZ, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

Appellant TEODORO BONOLA Y DELA CRUZ was convicted of robbery with homicide by the Regional Trial Court of Malolos, Bulacan (Branch XVI).^[1] He was sentenced to suffer the extreme penalty of death. He pleads for his acquittal on the grounds that his extrajudicial confession was obtained without the assistance of counsel and the circumstantial evidence against him cannot support his conviction.

The Amended Information^[2] against appellant Teodoro Bonola, Joven Fulgado,^[3] a certain alias "Didoy", and accessory-after-the fact Rodolfo Muñoz y Mamaril, states:

"That on or about the 12th day of November, 1979, in the municipality of Guiguinto, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Teodoro Bonola y dela Cruz, together with Joven Fulgado and one (1) alias Didoy who are still at large, armed with a knife and a crowbar, conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously, with intent of gain and by means of violence, threats and intimidation enter the house of spouses Flaviano Justiniano and Illuminada Brigino, and once inside, take, rob and carry away with them the following properties, to wit:

Cash money (sic) amounting to ---- P20,000.00

Seiko Lady's wrist watch ----- 500.00

Two (2) pairs of diamond earrings-- 5,000.00

Two (2) pcs. lady's ring (diamond)- 10,000.00

One (1) lady's ring (diamond) ----- 1,800.00

One (1) diamond necklace ----- 3,000.00

One (1) tamborine necklace ----- 600.00

Seiko men's wrist watch ----- 600.00

One (1) diamond men's ring ----- 12,000.00

One (1) diamond men's ring

with little diamond ----- 10,000.00

with a total value of P63,500.00, belonging to the said spouses Flaviano Justiniano and Illuminada Brigino, to the damage and prejudice of the latter in the said sum of P63,500.00; that simultaneously or during the commission of the robbery, the said accused Teodoro Boñola y dela Cruz conspiring with his other co-accused, with intent to kill the said spouses, did then and there wilfully, unlawfully and feloniously attack, assault, stab and hack with the said knife and crowbar, they were then provided, the said spouses, hitting the latter on the different parts of their bodies, thereby inflicting upon them serious physical injuries which directly caused the death of the said spouses Flaviano Justiniano and Illuminada Brigino; and that subsequent to the commission of the crime and with full knowledge thereof but without having participated therein as principal or as an accomplice, the said accused Rodolfo Muñoz y Mamaril, did then and there wilfully, unlawfully and feloniously take part subsequent to its commission by profiting or assisting the said principals to profit by the effects of the crime, that is, concealing in his possession two (2) of the [sic] pieces of jewelry, one tamborine necklace and diamond lady's ring, with a total value of P3,600.00, which was allegedly given to him by one of the principal suspects, Joven Fulgado, knowing fully well that the said pieces of jewelry could not be made or owned by the latter, said accused Rodolfo Muñoz y Mamaril received and kept in his possession said pieces of jewelry which were recovered from him.

"Contrary to law.

"Malolos, Bulacan, February 8, 1982."

When arraigned, appellant and Rodolfo Muñoz pleaded 'not guilty'.^[4] The other accused remain at large. Trial ensued as against appellant and Muñoz.

The facts as established by the prosecution show that in the early morning of November 13, 1979, spouses Flaviano Justiniano and Illuminada Brigino^[5] were found dead inside the stockroom in their house in Pulong-Gubat, Guiguinto, Bulacan. They sustained multiple stab and hack wounds on different parts of their bodies. At the time of the incident, Flaviano was seventy-seven (77) years old while Illuminada was seventy-five (75) years old.

JOSE BERANIA is a farmer working for the Justinianos. He testified that on November 13, 1979, between 6:00 a.m. and 7:00 a.m., he dropped by the house of the Justinianos to get farm tools. Nobody answered when he called on the spouses. He entered the house through the kitchen door and proceeded to the stockroom to get the tools himself. He saw Illuminada sprawled on the floor in a pool of blood inside the stockroom. Startled, he ran and sought help from the couple's neighbors. In his hurry, he did not notice the bloodied and lifeless Flaviano about a meter away

from Illuminada.^[6]

Neighbors Graciano Estrella and Nemencio Joaquin accompanied Berania back to the stockroom. On suggestion of Estrella and Joaquin, he reported the incident to the barangay captain of Pulong-Gubat. He also informed Illuminada's sister and the victims' daughter.^[7] When he returned to the scene of the crime, the police authorities of Guiginto had already arrived.^[8]

Berania also testified that the day before or on November 12, 1979, at about 3:00 p.m., he took his snack at the victims' house. He noticed three (3) men hanging around outside the house of the victims. One of them was appellant Bonola. Appellant and his companions stood beside the fence and were looking at the house. Berania returned to the farm after taking his snack.^[9]

Later in the afternoon, at around 5:00 p.m., Berania returned the farm tools to the Justinianos. He again saw three (3) men, about 50 meters away from the victims' house, heading towards the direction of barrio Cut-cut. Before going home, he conversed for a while with Illuminada. Flaviano was in a neighbor's house. That was the last time he saw the couple alive.^[10]

PACIFICO MANALANSANG, a farmer and resident of Pulong-Gubat, testified that at about 7:00 p.m., that fatal day, he went to the store of the victims to buy kerosene.^[11] When he arrived at the store, Flaviano was attending to three (3) customers who were sitting on a bench about one (1) meter outside the store. They were drinking beer. He failed to recognize the three (3) men because their heads were bowed and he was in a hurry to get home.^[12]

DR. BENITO B. CABALLERO, Municipal Health Officer of Bocaue, Bulacan, conducted the postmortem examination of the victims. He testified that Illuminada sustained wounds on the lateral side of her face and on the head while Flaviano sustained eight (8) hack wounds and multiple stab wounds on the head, chest and abdomen. He opined that the victims were either hit by a hard object while lying on the ground or pushed against a wall. Illuminada died due to: "massive intracranial and extracranial hemorrhage, fracture temporal and scipite-temporal bone due to hacking wound and massive internal hemorrhage puncturing the right lungs; multiple stab (wounds) in the chest". Flaviano died due to: "massive internal and external hemorrhage secondary to multiple stab (wounds) in the chest and abdomen, puncturing heart, liver, lungs and small intestines, xxx fracture skull (frontal bone) secondary to hacking wound."^[13]

PFC. TOMAS DE ARMAS of Guiginto Police Station investigated the incident. He found a crowbar and a broken knife at the scene. He said that the couple's bedroom beside the stockroom was turned topsy-turvy. The cabinet drawers were open and empty.^[14]

ROSITA JUSTINIANO-LEGASPI, daughter of the victims, testified that she inspected her parents' room shortly after the killing was discovered. Their clothes and personal belongings were scattered on the floor. Several pieces of jewelry bought by her parents over the years, valued at P43,500.00, were missing. Also lost was the amount of P20,000.00 allotted by her parents for farming.^[15]

P/SGT. ARMANDO MORELOS led the team that arrested appellant on November 21, 1979. Appellant was selling fishballs at the public market of Marikina when the police took him into custody. Wilfredo Lorilla,^[16] a resident of Pulong-Gubat and whose house was about (30) meters away from the victims, helped the police locate and identify the appellant.^[17] Inside the Marikina police station, the police interrogated appellant until he verbally admitted his participation in the crime. He revealed that Joven Fulgado and a certain alias Didoy also took part in the crime. He also disclosed that Joven gave the stolen pieces of jewelry to spouses NENITA FULGADO MUÑOZ and RODOLFO MUÑOZ y MAMARIL. He led them to the residence of said spouses in Calipi St., Calumpang, Marikina.^[18] While in Marikina, Sgt. Morales did not ask the accused if he wanted to be assisted by counsel.^[19]

NENITA MUÑOZ, auntie of accused Joven Fulgado, also testified for the prosecution. She confirmed that her nephew visited her at her residence in Marikina and left some items wrapped in a piece of paper for safekeeping. Joven left without telling them his whereabouts but he promised to retrieve the wrapped items upon his return. She turned over the wrapped items to Sgt. Morelos. The wrapped items-- a tamborine necklace and a lady's diamond ring-- were later identified as part of the pieces of jewelry stolen from the victims.^[20] From Marikina, the police authorities brought appellant to the Guiguinto police station for further investigation.

PAT. EFREN DELA CRUZ took the extrajudicial confession of the appellant which was given on November 22, 1979, the day after his arrest. De la Cruz testified that he informed appellant of his constitutional rights, including his rights to remain silent and to counsel. Appellant allegedly waived his rights and gave his uncounselled confession. The investigation was conducted in Tagalog, a dialect known to appellant. Nonetheless, a policewoman acted as a Visayan interpreter to assist him in understanding difficult Tagalog words. Appellant signed his confession after it was read to him by the investigator.^[21] Appellant's "Salaysay", dated November 22, 1979, was sworn to before former municipal judge ARTURO E. CRUZ.^[22] Judge Cruz verified from the appellant the truthfulness and voluntariness of the statement. Thereafter, Judge Cruz directed appellant to sign his statement a second time.^[23]

Jose Berania was summoned by the Guiguinto police one week after the arrest of appellant. Berania positively identified appellant from a police line-up as one of the three (3) men he saw near the house of the victims several hours before the robbery-slashing incident.^[24]

Appellant denied any participation in the crime. A native of Tacloban City, appellant was nineteen (19) years old at the time of the incident. He is unschooled. He does not know how to read and he could barely write his name. He speaks "waray" and a little Tagalog. He spent sometime in his uncle's house in Pulong-Gubat.^[25]

Appellant claimed he was not in Pulong-Gubat on November 12, 1979 because he was at the public market of Marikina the whole day, from 6:00 a.m. to 10:00 p.m. He denied knowing co-accused Joven Fulgado and alias Didoy, prosecution witnesses Jose Berania and Nenita Fulgado, and the victims.^[26]

Allegedly, he stayed in Pulong-Gubat from August 1979 to October 1979 and has not

returned since. From Pulong-Gubat, he moved to Marikina selling "samalamig" and "scramble" at the public market. He was barely three (3) weeks in Marikina when the Guiguinto policemen arrested him on November 21, 1979. He was handcuffed and taken to the municipal hall of Marikina.^[27] He was mauled and forced to admit his participation in the crime. He denied accompanying the team of Sgt. Morelos to the residence of spouses Nenita and Rodolfo Muñoz in Calumpang. He said he does not know where Calumpang is. From Marikina police station, he was transferred to Guiguinto police station. Again, he was tortured. He confessed when he could no longer take the maltreatment.^[28]

Appellant alleged he was not informed of his constitutional rights to remain silent and to counsel. The statement was not read to him when he signed it. He took his oath before Judge Cruz who made him sign his extrajudicial confession a second time. He was made to believe that it was for the purpose of transferring him to the provincial jail and expediting the termination of the case against him. He did not disclose the maltreatment to the judge or to anyone. While in detention, he notified the police that he has an uncle (Narciso Bonola) in Pulong-Gubat. The police did not fetch his uncle.^[29]

NARCISO BOÑOLA, uncle of appellant, testified that he knew the victims because his house is about one-half (1/2) kilometer away from the victims' house. He said appellant stayed with him during the planting season from June 1, 1979 until June 24, 1979. Appellant left after three (3) weeks because he did not like farm work. He often scolded appellant. Narciso claimed he did not see appellant in Pulong-Gubat on November 12, 1979. Later, he learned that appellant was involved in the robbery-slaying incident. He was afraid to visit his nephew at the municipal jail of Guiguinto because the case is not an ordinary one.^[30]

After trial, the court a quo acquitted Rodolfo Muñoz for insufficiency of evidence. However, appellant was found guilty of robbery with homicide. He was meted the penalty of death. He was also ordered to pay the legal heirs of victims Illuminada and Flaviano the amount of P30,000.00 as indemnity for their death; P50,000.00 for moral damages; P64,000.00 for actual damages; P30,000.00 for exemplary damages, plus the costs.^[31] The judgment of conviction was promulgated on March 14, 1985.

On August 9, 1994, the complete records of Criminal Case No. 3653-M were transmitted to this Court for automatic review. Appellant contends:

"I

"THE TRIAL COURT ERRED IN NOT DECLARING AS INADMISSIBLE IN EVIDENCE (HIS) EXTRAJUDICIAL CONFESSION xxx.

"II

"THE TRIAL COURT ERRED IN CONVICTING (HIM) OF THE CRIME CHARGED DESPITE THE UTTER FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."

We find the appeal impressed with merit.